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PAM RUBIO

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

YESENIA GUITRON; and JUDI KLOSEK,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.; WELLS
FARGO & CO.; PAM RUBIO; and DOES 1-
20,

Defendants.

CASE NO. CIV-10-03461 CW

**STIPULATION AND PROPOSED
ORDER REGARDING APPOINTMENT
OF DISCOVERY REFEREE**

STIPULATION AND PROPOSED ORDER REGARDING APPOINTMENT OF DISCOVERY REFEREE

1 WHEREAS, the parties have met and conferred and have agreed to use Commissioner
2 Richard Best (Ret.) as a discovery referee for the purpose of conducting the depositions of
3 Defendants WELLS FARGO BANK, N.A.'s employees and Defendant PAM RUBIO
4 (collectively, "Defendants") noticed by Plaintiffs;

5 WHEREAS, the parties have agreed that, in his role as discovery referee, Commissioner
6 Best shall have the authority and powers to: (1) rule on objections made during the course of the
7 depositions, (2) direct the witness to answer questions, and (3) rule on motions and other
8 requests by the parties relating to the scope of and conduct of the depositions;

9 WHEREAS, the parties briefed several discovery issues in six joint letter briefs, which
10 Magistrate Judge James ruled upon in her August 4, 2011 Discovery Order;

11 WHEREAS, Plaintiffs will provide a copy of Magistrate Judge James' August 4, 2011
12 Discovery Order, as well as the underlying submitted joint letter briefs, to Commissioner Best
13 on or before August 18, 2011, for his review;

14 WHEREAS, the parties have agreed that Commissioner Best's rulings are subject to
15 appeal to Magistrate Judge James, in the form of a joint letter, as set forth in Magistrate Judge
16 James' Standing Order Regarding Discovery & Dispute Procedures, but that any such appeal
17 must be filed within 10 calendar days following the ruling;

18 WHEREAS, the parties have agreed that Plaintiffs will pay Commissioner Best's fees
19 and costs related to the performance of his role as discovery referee for the depositions noticed
20 by Plaintiffs;

21 THEREFORE, the parties, through their undersigned counsel below, hereby stipulate
22 and agree, and respectfully request that the Court issue an order that:

- 23 1. Commissioner Richard Best (Ret.) will serve as a discovery referee for the limited
24 purpose of conducting the depositions noticed by Plaintiffs in this action.
25 Commissioner Best will serve in this role by either attending the deposition in person
26 or in an "on call" capacity as outlined in his e-mail to the parties' counsel dated July
27 30, 2011. Commissioner Best's appearance shall be determined at Plaintiffs'
28 discretion.
2. Commissioner Best shall have the authority and powers to: (1) rule on objections
made during the course of the depositions, (2) direct the witness to answer questions,


1 and (3) rule on motions and other requests by the parties relating to the scope of and
2 conduct of the depositions.

- 3 3. Commissioner Best's rulings shall be compliant and consistent with Magistrate Judge
4 James' previous orders in this action, including her August 4, 2011 Discovery Order,
5 a copy of which, as well as the underlying submitted joint letter briefs, Plaintiffs will
6 provide Commissioner Best on or before August 18, 2011 for his review
7 4. Commissioner Best's rulings are subject to appeal to Magistrate Judge James, in the
8 form of a joint letter, as set forth in Magistrate Judge James' Standing Order
9 Regarding Discovery & Dispute Procedures, but that any such appeal must be filed
10 within 10 calendar days following the ruling.
11 5. Plaintiffs will pay Commissioner Best's fees and costs related to the performance of
his role as discovery referee.

12 IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

13
14 Dated: August 18, 2011

ALLEN MATKINS LECK GAMBLE
MALLORY & NA TSIS LLP

15
16 By: 
17 ALEXANDER NESTOR
18 Attorneys for Defendants WELLS
19 FARGO BANK, N.A., WELLS FARGO
& CO. AND PAM RUBIO

20
21 Dated: August 18, 2011

PERETZ & ASSOCIATES

22
23 By: 
24 Yosef Peretz
Attorneys for Plaintiffs YESENIA

25 GUITRON and JUDI KLOSEK
26
27
28

~~PROPOSED~~ ORDER

Pursuant to Stipulation between the parties and good cause appearing therefore, IT IS
SO ORDERED.

Dated: September 12, 2011

By: 
THE HON. MARIA-ELENA JAMES
MAGISTRATE JUDGE